F I S C A L   I M P A C T   R E P O R T

SPONSOR Woods	**ORIGINAL DATE** 02/04/21 **LAST UPDATED**	**HB**	
SHORT TITLE Fiscal Agent for Capital Outlay Projects		**SB**	174
		ANALYST	Olson/Kehoe

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB55, SB207, SB290, and SB305

SOURCES OF INFORMATION
LFC Files

Responses Received From
Office of the Attorney General (NMAG)
Office of the State Auditor (OSA)
New Mexico Counties (NMC)
No Response Received
Legislative Council Service (LCS)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 174 requires the Legislative Council Service (LCS) to only accept capital outlay funding requests from non-governmental entities if the State, a county, or a municipality has accepted the role of acting as a fiscal agent for the entity's project.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

SB174 does not contain an appropriation, but the bill may place additional administrative responsibilities on LCS. It is unknown if the bill can be implemented with existing personnel and technological infrastructure.

SIGNIFICANT ISSUES

Currently, nonprofit organizations are able to submit capital outlay requests at the state level without first securing a governmental entity as a fiscal agent. State funding, in particular authorizations from severance tax bonds, must comply with the anti-donation clause of the New Mexico Constitution. Exceptions to the anti-donation such as health and medical services to the indigent and other exceptions, as determined by the New Mexico State Board of Finance may also apply.

The responsibility of a fiscal agent for a capital outlay project includes procurement, maintenance, improvement of the investment, potential insurance liabilities, and other contractual requirements by the State. Unexpected capital outlay awards to nonprofit organizations can create challenges for governmental entities, including administrative burdens, additional operational and capital financial responsibilities, and managing physical footprints. Occasionally, capital appropriations remain unspent because a governmental entity is unable or unwilling to serve as a fiscal agent.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 55 requires the Legislative Council Service to publish on the legislative website a searchable list of capital projects, which includes the amount allocated by each legislator or the governor.

Senate Bill 207 creates a Public Works Commission (PWC) to study and develop policy proposals relating to capital outlay projects, including prioritizing existing and proposed capital projects.

Senate Bill 290 creates a PWC, similar to SB207, and provides additional guidance on the criteria to rank and prioritize capital outlay projects.

Senate Bill 305, the "Capital Outlay Reform Act," creates a capital projects task force and Capital Planning and Assistance Division within the Department of Finance and Administration. Senate Bill 305 conflicts with Senate Bill 207 and Senate Bill 290.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Nonprofit organizations will be allowed to continue to make capital outlay requests without prior approval from a governmental entity.

SO/LMK/al